

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS,

Plaintiff,

v.

CASE NO.: 1:22-cv-23945-JEM

SMARTBIZ TELECOM LLC,
A Florida limited liability company,

Defendant.

/

UNOPPOSED MOTION TO CONTINUE TRIAL

Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs (“Attorney General”), respectfully requests a continuance of the trial period currently set to commence on Monday, October 21, 2024. [ECF No. 106]. The undersigned is currently set for trial in another matter which will commence on October 14, 2024, and is expected to last approximately three weeks. Accordingly, the Attorney General respectfully requests a continuance of at least thirty (30) days, and in support thereof further states as follows.

1. Counsel for the Attorney General is also counsel of record in the matter *State of Florida v. MV Realty PBC, LLC, et al.*, Case No. 2022-CA-009958 (FL 13th Jud. Cir.) (“MV Realty case”). On May 19, 2023, the court presiding over the MV Realty case set the matter for trial during a six-week trial period commencing

September 23, 2024. Subsequently, on September 6, 2024, the court set the MV Realty case for trial commencing October 14, 2024. The trial is reasonably expected to last approximately fifteen business days, to on or about November 1, 2024.

2. On August 6, 2024, this Court set the instant case for trial during the trial period commencing October 21, 2024, which conflicts with the previously set trial period in the MV Realty case.

3. Counsel for the Attorney General expects to play a significant role in the upcoming trial in the MV Realty case and anticipates conducting the direct examination of approximately ten witnesses. The Attorney General's trial team will be prejudiced if the undersigned counsel is unable to participate in trial in the MV Realty case.

4. The Attorney General respectfully submits that good cause exists to continue the trial date in the instant case to allow counsel to attend both trials.

5. Additionally, the parties are engaged in good faith settlement negotiations in light of the Court's recent Order on the parties' Motions for Summary Judgment, [ECF No. 110]. A brief continuance would allow the parties to continue these negotiations and potentially avoid trial on the remaining element of the Attorney General's claims.

MEMORANDUM OF LAW

A case management and scheduling order “may be modified only for good cause and with the judge's consent.” Fed. R. Civ. P. 16(b)(4). “This good cause standard precludes modification unless the schedule cannot be met despite the diligence of the party seeking the extension.” *See Sosa v. Airprint Sys., Inc.*, 133 F.3d 1417, 1418 (11th Cir. 1998) (per curiam) (internal quotation marks omitted). As stated above, the Attorney General has met the good cause standard because it cannot adequately prepare for and attend trial in this matter due to a previously scheduled trial. The Attorney General respectfully submits that good cause exists for a thirty (30) day continuance. Despite diligent efforts, the Attorney General would be prejudiced if the undersigned counsel is unable to attend either the trial set in this matter or the MV Realty case due to the unavoidable scheduling conflict.

CONCLUSION

WHEREFORE, the Attorney General respectfully requests the Court continue calendar call and the trial period for at least thirty days, such that calendar call not be set earlier than Monday, November 18, 2024.

CERTIFICATE OF CONFERRAL

Counsel for the Attorney General has conferred in writing with counsel for Defendant who has advised that the Defendant does not oppose the relief requested.

Dated: September 23, 2024.

Respectfully Submitted,

ASHLEY MOODY
Attorney General of the State of Florida

/s/ Patrick Crotty

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 23, 2024, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system and thereby served the other parties of record.

/s/ Patrick Crotty

Patrick Crotty
Special Counsel, Assistant Attorney General